HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition Nos. 3424 and 3563 of 2004

Dated: 28th October, 2005

Writ Petition No.3424 of 2004:

Between:

1. Sri Raja Mandapati Venkata Prabhakara Varma
S/o.Laxmipathiraju, R/o. Achiyyapalem, hamlet of
Bolleddupalem, Korukonda Mandal, East Godavari District
and others.

..... PETITIONERS

AND

1. State of Andhra Pradesh rep. by the District Collector,
District Collectorate, Kakinada, East Godavari District
and others.

.....RESPONDENTS

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Writ Petition No.3563 of 2004:

Between:

1. Bodapati AravalaRaju, S/o.Kondayya,
R/o. Garagalampalem Village, hamlet of Bolleddupalem Village,
Korukonda Mandal, East Godavari District and others.

..... PETITIONERS

AND

1. State of Andhra Pradesh rep. by the District Collector,

East Godavari District and others.

.....RESPONDENTS

HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

Writ Petition Nos. 3424 and 3563 of 2004

COMMON ORDER:

These two writ petitions are filed questioning the Notifications dated 31.12.2003 and 13.01.2003 issued under Section 4(1) of the Land Acquisition Act, 1894, (for short, 'the Act') and consequent notification dispensing with enquiry under Section 5-A of the Act.

2. The petitioners are residents of Achiyyapalem village, Garagalampalem village, hamlets of Bolleddupalem village and Bolleddupalem village, Korukonda Mandal, East Godavari District. The source of irrigation to their lands is Taraka Rama Ramavarapu Ava Lift Irrigation Scheme ('TRRALIS'). They have been permitted by the Executive Engineer, C.E.R.P. Division, Rajahmundry, to lift water from TRRALIS canal under letter No.D8/A1/W-15/1004.M, dated 20.07.1992. When the Government issued Notification proposing acquisition of

land for Pushkara Lift Irrigation Main Canal, the petitioners raised objection on the ground that Pushkara Lift Irrigation Main Canal and TRRALIS canal overlap each other. The further ground is that the assured supply of water to their lands will be affected in case of implementation of Pushkara Lift Irrigation Main Canal. Yet another ground urged is that once their lands are acquired for Pushkara Lift Irrigation Main Canal, the left over lands will be uneconomical for cultivation.

3. Respondents 2, 3 and 5 have filed separate counter affidavits.

4. Heard learned counsel appearing for the petitioners, learned Government Pleader for Revenue appearing for the 1st respondent, learned Government Pleader for Land Acquisition appearing for the 2nd respondent, learned Government Pleader for Irrigation and Command Area Development appearing for the 5th respondent and learned counsel appearing for the 3rd respondent.

5. Learned counsel appearing for the petitioners submits that the proposed acquisition affects the assured source of irrigation to their lands and the scheme called Pushkara Lift Irrigation Main Canal is *mala fide* and that the said scheme has been proposed without application of mind. It is also submitted by him that the proposed Pushkara Lift Irrigation Main Canal overlaps the existing TRRALIS canal. He tries to convince the Court by placing on record a rough sketch of the two channels.

6. The learned Government Pleader for Irrigation and Command Area Development appearing for the 5th respondent placed on record a plan showing the flow of the existing TRRALIS supply channel and the proposed Pushkara Main Canal. It is certified by the Executive Engineer, Indira Sagar L.M.C. Division, Rajahmundry and the Deputy Executive Engineer, Constructions, Sub-Division No.I (Irrigation Department), Rajahmundry, and it is drawn to scale. It is clear from the plan that the two channels do not overlap each other and instead they run parallel. Therefore, the contention of the learned counsel

for the petitioners that the two channels overlap each other has no substance.

7. The other ground raised by the learned counsel appearing for the petitioners that if their lands are acquired for the proposed Pushkara Lift Irrigation Main Canal, the left over lands will be uneconomical. This is a ground for the petitioners to claim compensation for their pieces of land, which would be uneconomical after acquiring the lands. His next submission is that the petitioners will be deprived of the assured water source to their lands if the proposed Pushkara Lift Irrigation Main Canal is implemented. He seeks direction to the Government to assure supply of water to their lands after implementation of the Pushkara Lift Irrigation Main Canal. He placed on record the proceedings Ref.D7/2413/2005, dated 18.05.2005, of the Collector and District Magistrate, East Godavari District, Kakinada, whereunder the petitioners have been temporarily permitted to lift the water from Pushkara Lift Irrigation Main Canal. The relevant portion of the said proceedings reads as follows:

"In the circumstances explained by the S.E., Construction Circle, Dowlaiswaram and in view of his recommendation temporary permission is hereby accorded to the following farmers to lift water from Puskhara L. I. main canal strictly at their own cost under supervision of irrigation department, for irrigating their balance lands till the permanent water supply arrangements are made by the irrigation department and also subject to fulfillment of irrigation department conditions and other formalities. The Executive Engineer, Construction Division, Rajahmundry should take a bond from the applicants in this matter.

Sl. No.	Name of the farmer	Village	Survey No.	Extent Ac.Cts.
1.	Maddala Suryanarana	Bulleddupalem	230	4.30
2.	Bodapati Aravala Raju	Nagampalli	216, 217	18.00
3.	Bodapati Aravala Raju	Bulleddupalem	91	5.74
4.	SRMVBVV Satyanarayanavarma	Bulleddupalem	91,97,99,100	21. 57
5.	SRMVBVV Satyanarayanavarma	Bulleddupalem	101, 105	18.86
6.	Moparthi Meenakshamma,Venkata Krishna Rao	Gadelapalem	213/1, 213/2, 211	15.50
		Total		83.97

This is purely a temporary permission and does not confer any right to the applicants. In case of problems/violation of conditions in future the temporary permission will be cancelled without any notice."

8. The question of giving direction to the respondents to provide assured water supply to the lands of the petitioners stands outside the scope of jurisdiction of this Court. Therefore, no direction can be given to the respondents and accordingly, both the writ petitions are liable to be dismissed.

9. Accordingly, both the writ petitions are dismissed. No costs.

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B.SESHASAYANA REDDY, J.

Dated: 28th October, 2005.

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